

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DATA:)COMM ELECTRONICS, INC.
a Georgia Corporation,

Plaintiff,

v.

SKYWALKER COMMUNICATIONS, INC.
a Missouri Corporation

Defendant.

Civil Action File

No. _____

JURY TRIAL
DEMANDED

COMPLAINT

Plaintiff Data:)Comm Electronics, Inc. (“DataComm”) states its Complaint against Defendant, Skywalker Communications, Inc. (“Defendant”), as follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.
2. This Court has subject matter jurisdiction over all causes of action set forth herein pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

3. Venue is proper in this judicial district and division pursuant to 28 U.S.C. §§1391(b) and (c) and 1400(b) in that the Defendant has done business in this District, has committed acts of infringement in this District, and continues to commit acts of infringement in this District, entitling DataComm to relief.

PARTIES

4. DataComm is a Georgia Corporation with a principle place of business at 2831 Peterson Place, Norcross, Georgia 30071.

5. Upon information and belief, Defendant is a Missouri corporation with its principle place of business at 9390 Veterans Memorial Parkway, O'Fallon, Missouri 63366.

6. On information and belief, Defendant sells and has sold products into the State of Georgia directly and/or via one or more of Defendant's distributors.

7. Upon information and belief, the Court has personal jurisdiction over Defendant.

THE CONTROVERSY

8. DataComm holds all rights and interests in United States Patent No. 7,390,964 to Gorin *et al.*, issued June 24, 2008, entitled "Wall plate having internal nose for electrical cable," which is hereinafter referred to as "the '964 patent."

9. A copy of the '964 patent is attached herewith as Exhibit "A."

10. Upon information and belief, Defendant sells and/or offers for sale a product that may be referred to as: Construct Pro Single Gang Bulk Wire Plate with Quick Install Mounting Wings (Model CON5051BWP), which is hereinafter referred to as “the Accused Product.”

11. Select images of the Accused Product are attached as Exhibit “B.”

COUNT ONE:
INFRINGEMENT OF U.S. PATENT NO. 7,390,964

12. DataComm realleges and incorporates herein the allegations of paragraphs 1 through 12 of this Complaint as if fully set forth herein.

13. Upon information and belief, Defendant has infringed directly and/or indirectly and continues to infringe directly and/or indirectly at least claim 11 of the ‘964 patent. A preliminary claim chart showing infringement of claim 11 is attached hereto as Exhibit “C.”

14. Defendant’s infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or offer for sale of the Accused Product, including, upon information and belief, within the State of Georgia and within this judicial district.

15. The acts of infringement of the ‘964 patent by Defendant have caused and will continue to cause damage to DataComm.

16. Upon information and belief, Defendant's acts of infringement are willful.

17. DataComm is entitled to recover from Defendant the damages sustained by DataComm as a result of Defendant's wrongful acts in an amount subject to proof at trial.

18. The infringement of DataComm's exclusive rights under the '964 patent by Defendant will continue to damage DataComm, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff DataComm prays for the following relief from the Court and against Defendant Skywalker Communications, Inc.:

- A. Entry of judgment of patent infringement against Defendant;
- B. That Defendant be ordered to pay damages adequate to compensate DataComm for Defendant's acts of infringement and treble damages, both pursuant to 35 U.S.C. § 284;
- C. That this case is exceptional and that DataComm be awarded its reasonable attorneys' fees pursuant to 35 U.S.C. § 285;
- D. That Defendant and its officers, agents, employees, and those acting in privity with Defendant, be permanently enjoined from further infringement,

contributory infringement, and/or inducing infringement pursuant to 35 U.S.C. § 283;

E. That Defendant be ordered to pay prejudgment and post-judgment interest;

F. That Defendant be ordered to pay all costs and interest associated with this action; and

G. That DataComm be granted such other and additional relief as the Court deems just, equitable, and proper.

DEMAND FOR JURY TRIAL

Plaintiff Data:)Comm Electronics, Inc. demands a trial by jury of all issues triable of right by a jury.

This 2nd day of November, 2016.

/s/N. Andrew Crain
N. Andrew Crain
Georgia Bar No. 193081
Robert D. Gravois
Georgia Bar No. 600183
THOMAS | HORSTEMEYER LLP
400 Interstate North Parkway SE
Suite 1500
Atlanta, Georgia 30339
Telephone: (770) 933-9500
Facsimile: (770) 951-0933
andrew.crain@thomashorstemeyer.com
robert.gravois@thomashorstemeyer.com

*Counsel for Plaintiff Data:)Comm
Electronics, Inc.*